

**REMARKS**

Claims 1-5, 7-10, 12-16, 18, 20 and 22-26 are pending. Claims 1, 7, 8, 10 and 12-16 have been amended, and claims 6, 11, 17, 19 and 21 have been canceled. Claims 22-26 have been added.

Claims 1, 2, 6/1, 6/2, 7, 8, 10-14 and 19 are rejected under 35 USC 103(a) on Tian (U.S. Patent No. 6,879,709) in view of official notice. The Examiner relies on Tian as teaching the invention of the rejected claims but for the transmission of position data from an input device, for which the Examiner takes official notice. This rejection is respectfully traversed with respect to the claims as amended.

Although Tian discloses evaluating images, this image evaluation in the context of Tian's disclosure as a whole does not satisfy the requirements of the claims regarding the nature of the image evaluation. That is, Tian does not disclose image evaluation that generates a profile of displayed image data areas that are pointed to by a pointing device as claimed. Nor does Tian disclose the use of image display control data and recorded pointing device position data to generate the profile as claimed. Rather, Tian merely discloses image recognition applied to facial expressions.

The present invention relates to measuring and evaluating the spots on images of ads, commercial videos, etc. that are focused on by unbiased spectators. An ad that attracts a lot of attention at the wrong place (like a beautiful person who is holding a less beautiful product in hand) may fail in conveying a message about the product itself. In a worst case scenario, the spectator only pays attention to the presenter, rather than to the presented goods.

In practice, spots looked at tend to be dynamic rather than static, as spectators may look at a certain location first and then allow their eyes to wander around on an image. Knowing which path the eyes of the spectators follow can be quite valuable in assessing the effectiveness of a printed ad or an advertising commercial. While optical tracking devices may be used, like a helmet equipped with a camera to track the eyes of a subject acting as test spectator, such equipment is costly and cumbersome to handle. The present invention is directed to providing an

alternate, less costly, way to determine the path of the spots on which attention is focused. An example of such a path is shown in Fig. 3b of the specification.

The idea underlying the invention is to use a pointing device, such as a computer mouse for example, instead of a camera. It was found that a correlation exists between the spot a subject looks at and the position of the marking, or cursor, indicated by the pointing device. Hence, the subject tends to move the marking to the momentary attention spot. The present invention is directed to a device configured and operated in order to make use of this correlation.

The cited prior art has nothing to do with measuring and evaluating a subject's focus on an image. Tian discloses an image recognition process for detecting whether or not an imaged facial expression is neutral. Ito (US 5,453,762) discloses a handwriting recognition system. Prokoski (US 2002/0140542) relates to a biometric key system for accessing communications networks. And Steiger (US 5,483,960) relates to X-ray scans. None of these references, either individually or in combination, teach or suggest the claimed invention as explained above. Accordingly, the rejection should be withdrawn.

Early action allowing claims 1-5, 7-10, 12-16, 18, 20 and 22-26 is solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. **246472003300**.

Dated: December 27, 2007

Respectfully submitted,

By Bradley J. Meier  
Bradley J. Meier  
Registration No.: 44,236  
MORRISON & FOERSTER LLP  
1650 Tysons Blvd, Suite 400  
McLean, Virginia 22102  
(703) 760-7700